117. Section 80.203 is amended as follows:

a. Paragraph (a) is amended by changing the term "type accepted" to "certificated" in the first sentence, changing the term "type acceptance" to "certification" in the second sentence, and changing the term "type accepted or type approved" to "authorized" in the last sentence.

b. Paragraphs (d), (f), (h), (i), (j), (k), (l) and (m)(2) are amended by changing the term "type accepted" to "certificated" and changing the term "type acceptance" to "certification".

c. Paragraph (k) is amended by deleting the last sentence.

118. Section 80.205, paragraph (a), note 11 is amended by changing the term "type accepted" to "approved".

119. Section 80.207, paragraph (d), notes 2 and 5 are amended by changing the term "type accepted" to "approved".

120. Section 80.209, paragraph (a)(1)(ii), (a)(1)(iii) and (a)(1)(iv) are amended by changing the terms "type accepted or type approved" and "type approved" to "approved". Paragraph (a), note 1 is amended by changing the term "type acceptance" to "approval". Paragraph (a), note 2 is amended by changing the term "type accepted" to "approved".

121. Section 80.215, footnote 8 is amended by changing the term "type acceptance" to "certification".

122. Section 80.221, paragraph (d) is amended by changing the term "type accepted" to "certificated".

123. Section 80.251, paragraphs (a) and (b) are amended by changing the term "type acceptance" to "certification", and the term "type accepted" to "certificated".

124. Section 80.253, paragraph (a), notes 1 and 2 are amended by changing the terms "type accepted or type approved" and "type accepted or type approval" to "approved".

125. Section 80.255, paragraph (a), notes 1 and 2 are amended by changing the terms "type accepted or type approved" to "approved".

126. Section 80.259, paragraphs (a), (a)(1) and (a)(2) are amended by changing the term "type acceptance" to "certification" and "type approved" to "approved".

127. Section 80.265 is amended as follows:

a. Paragraph (b)(1), table footnotes 1, 2, and 3 are amended by changing the terms "type accepted or type approved" and "type approved" to "approved".

b. Paragraph (c)(1), table footnote 1 is amended by changing the term "type approved" to "approved".

c. Paragraph (e)(2) is amended by changing the term "type accepted" to "certificated".

128. Section 80.267, paragraph (a)(1), table footnotes 1 and 2 are amended by changing the term "type accepted or type approved" to "approved".

129. Section 80.271, paragraphs (b), (c) and (d) are amended by changing the term "type accepted" to "certificated". Paragraph (e) is amended by changing the term "Radio Equipment List" to "database".

130. Section 80.605, paragraph (b) is amended by changing the term "type acceptance" to "certification".

131. Section 80.812 is amended by changing the term "of a type accepted" to "certificated".

132. Section 80.814 is amended by changing the term "of a type accepted" to "certificated".

133. Section 80.829, paragraph (b) is amended by changing the term "type accepted" to "certificated".

134. Section 80.831, paragraph (a) is amended by changing the term "type accepted" to "certificated".

135. Section 80.833, paragraph (a) is amended by changing the term "type accepted" to "certificated".

136. Section 80.836, paragraph (c)(3)(i) is amended by changing the term "type accepted" to "certificated".

137. Section 80.856 is amended by changing the term "type accepted" to "certificated".

138. Section 80.873, paragraph (d)(3) is amended by changing the term "type accepted" to "certificated".

139. Section 80.874, paragraph (a) is amended by changing the term "type accepted" to "certificated".

140. Section 80.911, paragraph (c) is amended by changing the term "type accepted" to "certificated".

141. Section 80.1053, paragraph (c) is amended by changing the term "type accepted" to "certificated", and changing the term "type acceptance" to "certification".

142. Section 80.1059, paragraph (e) is amended by changing the term "type acceptance" to "certification".

143. Section 80.1061, paragraphs (c) and (d) are amended by changing the term "type acceptance" to "certification".

144. Section 80.1103, paragraphs (a), (b) and (c) are amended by changing the terms "type accepted" to "certificated", "type acceptance" to "certification", "notified" to "verified", and "notification" to "verification".

Part 87 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87--AVIATION SERVICES

145. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

146. Section 87.39 is amended by changing the term "type accepted" to "certificated".

147. Section 87.131, notes 5 and 7 are amended by changing the term "type accepted" to "certificated", and changing the term "type acceptance" to "certification".

148. Section 87.133, paragraph (a), note 3 is amended by changing the terms "type accepted or type approved" to "approved". Notes 4 and 5 are amended by changing the term "type accepted" to "approved". Note 11 is amended by changing the term "type acceptance" to "certification".

149. Section 87.137, paragraph (a), notes 3 and 15 are amended by changing the term "type accepted" to "approved". Note 4 is amended by changing the term "type acceptance" to "approval".

150. Section 87.139, paragraph (g) is amended by changing the term "type accepted" to "approved".

151. Section 87.145 is revised to read as follows:

Section 87.145 Acceptability of transmitters for licensing.

(a) Each transmitter must be certificated for use in these services, except as listed in paragraph (c) of this section. However, aircraft stations which transmit on maritime mobile frequencies must use transmitters certificated for use in ship stations in accordance with part 80 of this chapter. Certification under part 80 is not required for aircraft earth stations transmitting on maritime mobile-satellite frequencies. Such stations must be certificated under part 87.

(b) Some radio equipment installed on air carrier aircraft must meet the requirements of the Commission and the requirements of the FAA. The FAA requirements may be obtained from the FAA, Aircraft Maintenance Division, 800 Independence Ave., SW., Washington, DC 20591.

(c) The equipment listed below is exempted from certification. The operation of transmitters which have not been certificated must not result in harmful interference due to the failure of those transmitters to comply with technical standards of this subpart.

(1) Development or Civil Air Patrol transmitters.

(2) Flight test station transmitters for limited periods where justified.

(3) U.S. Government transmitters furnished in the performance of a U.S. Government contract if the use of certificated equipment would increase the cost of the contract or if the transmitter will be incorporated in the finished product. However, such equipment must meet the technical standards contained in this subpart.

(4) ELTs verified in accordance with § 87.147(e).

(5) Signal generators when used as radionavigation land test stations (MTF).

(d) Aircraft earth stations must correct their transmit frequencies for Doppler effect relative to the satellite. The transmitted signal may not deviate more than 335 Hz from the desired transmit frequency. (This is a root sum square error which assumes zero error for the received ground earth station signal and includes the AES transmit/receive frequency reference error and the AES automatic frequency control residual errors.) The applicant must attest that the equipment provides adequate Doppler effect compensation and where applicable, that measurements have been made that demonstrate compliance. Submission of data demonstrating compliance is not required unless requested by the Commission.

152. Section 87.147 is revised to read as follows:

Section 87.147 *Authorization of equipment.*

(a) Certification may be requested by following the procedures in part 2 of this chapter. Aircraft transmitters must meet the requirements over an ambient temperature range of -20 degrees to +50 degrees Celsius.

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i) when tested in accordance with the Signal Enhancement Test contained in subpart N, part 2 of this chapter. A report of the measurements must be submitted with each application for certification. ELTs that meet the output power characteristics of the section must have a permanent label prominently displayed on the outer casing state, "Meets FCC Rule for improved satellite detection." This label, however, must not be placed on the equipment without authorization to do so by the Commission. Application for such authorization may be made either by submission of a new application for certification accompanied by the required fee and all information and test data required by parts 2 and 87 of this chapter or, for ELTs approved prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original equipment authorization comply with the requirements of this paragraph without change to the original circuitry.

(c) An applicant for a station license may request certification for an individual transmitter by following the procedure in part 2 of this chapter. Such a transmitter will be individually certified and so noted on the station license.

(d) An applicant for certification of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: FAA, Spectrum Engineering Division, 800 Independence Ave. SW., Washington, DC 20591 no later than the date of filing of the application with the Commission.

(1) * * *

(2) The certification application must include a copy of the notification letter to the FAA. The Commission will not act for 21 days after receipt of the application to afford the FAA an opportunity to comment. If the FAA objects to the application for equipment authorization, it should mail its objection with a showing that the equipment is incompatible with the National Airspace System to: Office of Engineering and Technology Laboratory, Authorization and Evaluation Division, 7435 Oakland Mills Rd., Columbia, MD 21046. If the Commission receives such an objection, the Commission will consider the FAA showing before taking final action on the application.

(3) * * *

(e) Verification reports for ELTs capable of operating on the frequency 406.025 MHz must include sufficient documentation to show that the ELT meets the requirements of § 87.199(a). A letter notifying the FAA of the ELT verification must be mailed to: FAA, Spectrum Engineering Division, 800 Independence Avenue SW., Washington, DC 20591.

153. Section 87.189, paragraph (b) is amended by changing the term "type accepted" to "certificated".

154. Section 87.199, paragraphs (c) and (d) are revised to read as follows:

Section 87.199 *Special requirements for 406.025 MHz ELTs.*

* * * * *

(c) Prior to verification of a 406.025 MHz ELT, the ELT must be certified by a test facility recognized by one of the COSPAS/SARSAT Partners that the equipment satisfies the design characteristics associated with the COSPAS/SARSAT document COSPAS/SARSAT 406 MHz Distress Beacon Type Approval Standard (C/S T.007). Additionally, an independent test facility must certify that the ELT complies with the electrical and environmental standards associated with
the RTCA Recommended Standards.

(d) The procedures for verification are contained in subpart J of part 2 of this chapter.

* * * * *

Part 90 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90--PRIVATE LAND MOBILE RADIO SERVICES

155. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251-2, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251-2, 303, 309 and 332, unless otherwise noted.

156. Section 90.5, paragraph (c) is amended by changing the term "type acceptance and type approval" to "certification".

157. Section 90.17, paragraph (e)(4) is amended by changing the term "type accepted" to "certificated".

158. Section 90.19, paragraphs (f)(5)(i), (g)(3) and (g)(6) are amended by changing the term "type accepted" to "certificated".

159. Section 90.21, paragraph (e)(4) is amended by changing the term "type accepted" to "certificated".

160. Section 90.23, paragraph (e)(3) is amended by changing the term "type accepted" to "certificated".

161. Section 90.25, paragraph (e)(3) is amended by changing the term "type accepted" to "certificated".

162. Section 90.65, paragraph (c)(11) is amended by changing the term "type accepted" to "certificated".

163. Section 90.103, paragraphs (c)(23) and (c)(24) are amended by changing the term "type accepted" to "certificated".

164. Section 90.129, paragraph (b) is revised to read as follows:

Section 90.129 *Supplemental information to be routinely submitted with applications.*

* * * * *

(b) Description of any equipment proposed to be used if it is not approved for use under this part.

* * * * *

165. Section 90.203 is revised to read as follows:

Section 90.203 *Type acceptance required.*

(a) Except as specified in paragraph (b) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in § 2.803 (of part 2) must be of a type which is certificated for use under this part; or, be of a type which has been certificated by the Commission for use under this part in accordance with the procedures in paragraph (a)(2) of this section.

(1) (reserved)

(2) Any manufacturer of radio transmitting equipment (including signal boosters) to be used in these services may request certification for such equipment following the procedures set forth in subpart J of part 2 of this chapter. Certification for an individual transmitter or signal booster also may be requested by an applicant for a station authorization by following the procedure set forth in part 2 of this chapter. Such equipment if approved will be enumerated on the station authorization.

(b) Certification is not required for the following:

* * * * *

(c) Radiolocation transmitters for use in public safety and land transportation applications marketed prior to January 1, 1974, must meet the applicable technical standards in this part, pursuant to § 2.803 of this chapter.

* * * * *

(e) Except as provided in paragraph (g) of this section, transmitters designed to operate above 25 MHz shall not be certificated for use under this part if the operator can program and transmit on frequencies, other than those programmed by the manufacturer, service or maintenance personnel, using the equipment's external operation controls.

(f) Except as provided in paragraph (g) of this section, transmitters designed to operate above 25 MHz that have been approved prior to January 15, 1988, and that permit the operator, by using external controls, to program the transmitter's operating frequencies, shall not be manufactured in, or imported into the United States after March 15, 1988. Marketing of these transmitters shall not be permitted after March 15, 1989.

* * * * *

(h) * * *

(1) * * *

(2) The part 90 certification limits the use of the equipment to operations only under § 90.423.

* * * * *

(j) * * *

(1) Prior to August 1, 1996, certification will be granted for equipment with channel bandwidths up to 25 kHz.

(2) On or after August 1, 1996, certification will only be granted for equipment with the following channel bandwidths:

* * * * *

(3) On or after August 1, 1996, requests for part 90 certification of transmitters designed to operate on frequencies in the 150-174 MHz and 421-512 MHz bands must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per

12.5 kHz of channel bandwidth. If the equipment is capable of transmitting data and has an overall bandwidth of 6.25 kHz or more, the equipment must be capable of supporting a minimum data rate of 4800 bits per second per 6.25 kHz of bandwidth.

(4) On or after January 1, 2005, except for hand-held transmitters with an output power of two watts or less, certification will only be granted for equipment with the following channel bandwidths:

* * * * *

(5) On or after January 1, 2005, requests for part 90 certification of transmitters designed to operate on frequencies in the 150-174 MHz and 421-512 MHz bands must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per 6.25 kHz of channel bandwidth. If the equipment is capable of transmitting data and has an overall bandwidth of 6.25 kHz or more, the equipment must be capable of supporting a minimum data rate of 4800 bits
per second per 6.25 kHz of bandwidth.

(6) The Commission's Equipment Authorization Division will not accept applications for modification or permissive changes of certification grants for single bandwidth mode transmitters designed to operate on channel bandwidths wider than 12.5 kHz granted prior to August 1, 1996, except under the following conditions:

(i) Transmitters that have the inherent capability for multi-mode or narrowband operation allowed in paragraphs (j)(2) and (j)(4) of this section, may have their grant of certification modified upon demonstrating that the original unit complies with the technical requirements for operation.

* * * * *

(7) Transmitters designed for one-way paging operations will be certificated with a 25 kHz channel bandwidth.

166. Section 90.211, paragraph (b) is amended by changing the term "type acceptance" to "certification".

167. Section 90.219, paragraph (e) is amended by changing the term "type accepted" to "certificated".

168. Section 90.237, paragraphs (c) and (g) are amended by changing the term "type accepted" to "certificated".

169. Section 90.241, paragraph (c)(12) is amended by changing the term "type accepted" to "certificated".

170. Section 90.269, paragraph (a)(2) is amended by changing the term "type accepted" to "certificated".

Part 95 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 95--PERSONAL RADIO SERVICES

171. The authority citation for Part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

172. Section 95.117, paragraph (a)(4) is amended by changing the term "type-accepted" to "certificated".

173. Section 95.129, paragraphs (a), (b)(1) and (b)(2) are amended by changing the term "type-accepted" to "certificated".

174. Section 95.133, paragraphs (a) and (b) are amended by changing the term "type-accepted" to "certificated".

175. Section 95.209, paragraphs (a)(1), (a)(2), (a)(3), (b) and (d) are amended by changing the term "type-accepted" to "certificated", changing the term "type-acceptance" to "certification" and deleting the references to "type approved".

176. Section 95.221, paragraph (b) is amended by changing the term "type accepted" to "certificated".

177. Section 95.222, paragraph (b)(2) is amended by changing the term "type-accepted" to "certificated".

178. Section 95.225, paragraph (a)(2) is amended by changing the term "type-accepted" to "certificated".

179. Section 95.409, paragraphs (a) and (b) are amended by changing the term "type accepted" to "certificated", and the term "type acceptance" to "certification".

180. Section 95.411, paragraph (a) introductory text is amended by changing the term "type-accepted" to "certificated".

181. Section 95.425, paragraph (b)(2) is amended by changing the term "type accepted" to "certificated".

182. Section 95.428, paragraph (a)(2) is amended by changing the term "type accepted" to "certificated".

183. Section 95.601 is amended by changing the term "type acceptance or type certification" to "certification".

184. Section 95.603, the title is amended by deleting the words "Type acceptance or", and paragraphs (a), (b), (c) and (e) are amended by changing the term "type accepted" to "certificated".

185. Section 95.605 is revised to read as follows:

Section 95.605 *Certification procedures.*

Any entity may request certification for its transmitter when the transmitter is used in the GMRS, R/C, CB, IVDS, LPRS, or FRS following the procedures in part 2 of this chapter.

186. Section 95.607, introductory text and paragraph (a) are revised by changing the term "type accepted" to "certificated", and the term "type acceptance" to "certification".

187. Section 95.635, the table in paragraph (b) is amended by changing the term "type accepted" to "authorized".

188. The heading before Section 95.645 is revised to read "CERTIFICATION REQUIREMENTS".

189. Section 95.645, paragraph (b) is amended by changing the term "type accepted" to "certificated".

190. Section 95.653, paragraph (a) is amended by changing the term "type acceptance" to "certification".

191. Section 95.655, paragraph (a) is amended by changing the term "type accepted" to "certificated", and the term "type acceptance" to "certification".

192. The heading before Section 95.655 is revised to read "ADDITIONAL CERTIFICATION REQUIREMENTS FOR CB TRANSMITTERS."

193. Section 95.669, paragraph (a)(1) is amended by changing the term "type acceptance" to "certification".

194. Section 95.851, title and text are amended by changing the term "type acceptance" to "certification", and the term "type accepted" to "certificated".

195. Section 95.857, paragraph (c) is amended by changing the term "type acceptance" to "certification".

Part 97 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97--AMATEUR RADIO SERVICE

196. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

197. Section 97.315, title, paragraphs (a), (b) and (c) are amended by changing the term "type acceptance" to "certification", and the term "type accepted" to "certificated". Paragraph (c), first sentence is deleted, and the term "on this list" is changed to "in the Commission's database".

198. Section 97.317, title, paragraphs (a), (b) and (c) are amended by changing the term "type acceptance" to "certification".

Part 101 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 101--FIXED MICROWAVE SERVICES

199. The authority citation for Part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

200. Section 101.61, paragraph (c)(1)(i) is amended by changing the term "type-accepted (or type-notified)" to "certificated or verified."

201. Section 101.107, paragraph (a), footnote 4 is amended by changing the term "type accepted" to "authorized".

202. Section 101.133, paragraph (a) is amended by changing the term "type accepted" to "certificated".

203. Section 101.139 is revised as follows:

Section 101.139 *Authorization of transmitters.*

(a) Except for transmitters used at developmental stations or for fixed point-to-point operation pursuant to subparts H and I of this part, each transmitter must be a type which has been certificated by the Commission for use under the applicable rules of this part. Transmitters used in the private operational fixed and common carrier fixed point-to-point microwave services under subparts H and I of this part must be of a type that has been verified for compliance. Transmitters designed for use in the 31.0 to 31.3 GHz band will be authorized under the verification procedure.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request certification or obtain verification by following the applicable procedures set forth in part 2 of this chapter.

(c) Certification for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the procedures set forth in part 2 of this chapter.

(d) A transmitter presently shown on an instrument of authorization, which operates on an assigned frequency in the 890-940 MHz band and has not been certificated, may continue to be used by the licensee without certification provided such transmitter continues otherwise to comply with the applicable rules and regulations of the Commission.

(e) Certification or verification is not required for portable transmitters operating with peak output power not greater than 250 mW. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

* * * * *

204. Section 101.141, paragraph (a)(2) is amended by changing the term "type accepted" to "certificated".

205. Section 101.151, paragraph (e) is amended by changing the term "type-accepted" to "certificated".

APPENDIX B

LIST OF COMMENTING PARTIES

Comments

Alcatel Network Systems, Inc. (Alcatel)
AMP Incorporated (AMP)
Ericsson, Inc. (Ericsson)
Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association (Section)
Ford Motor Company (Ford)
GE Lighting (GE)
Hewlett-Packard Company (HP)
Information Technology Industry Council (ITI)
Metricom, Inc. (Metricom)
Motorola, Inc. (Motorola)
National Electrical Manufacturers Association (NEMA)
Telecommunications Industry Association Technical and Regulatory Reform Task Force (TIA)
The Consumer Electronics Manufacturers Association (CEMA)
Time Warner Cable (Time Warner)
Uniden America Corporation (Uniden)

Late Filed Comments

Rockwell International Corporation (Rockwell)

Reply Comments

Alcatel Network Systems, Inc. (Alcatel)
Ericsson, Inc. (Ericsson)
Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association (Section)
Information Technology Industry Council (ITI)
Metricom, Inc. (Metricom)
National Cable Television Association (NCTA)
NextLevel Systems, Inc. (NextLevel)

APPENDIX C

FINAL REGULATORY FLEXIBILITY ANALYSIS

As required by the Regulatory Flexibility Act ("RFA"),[79] an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in "*Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment", Notice of Proposed Rule Making* ("*Notice*"), in ET Docket No. 97-94.[80] The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA.[81]

I. *Need For and Objective of the Rules.*

The Commission is amending Parts 2, 15, 18 and other parts of its rules to simplify the equipment authorization processes, deregulate the equipment authorization requirements for certain types of equipment, and begin implementation of an electronic filing system for equipment authorization applications. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements. They will also improve the efficiency of the equipment authorization process so that products can be introduced to the market more rapidly. They will reduce the number of applications required to be filed with the Commission annually from about 3500 to approximately 1800, significantly reducing paperwork requirements on manufacturers. We expect that this action will result in savings of at least $100 million to manufacturers of the products covered by the changes. The provision for electronic filing of applications should significantly reduce the current applications time. We believe these actions will greatly benefit both large and small manufacturers and encourage the development of innovative products that best meet consumer's needs.

II. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.*

In the IRFA we stated that proposals in this proceeding would result in a significant decrease in equipment authorization applications that must be filed with the Commission. We believe that small entities will benefit from these proposals because in many cases they will no longer be required to file applications with the Commission. Also, small entities will benefit from the

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[79] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA).

[80] *See Notice of Proposed Rule Making* in ET Docket 97-94, 12 FCC Rcd 8743 (1997).

[81] *See* 5 U.S.C. § 604.

simpler regulations and streamlined process for equipment that continues to require authorization by the FCC. We solicited comments regarding these conclusions. No comments were submitted directly in response to the IRFA.

III. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.*

The RFA generally defines small entity as having the same meaning as the terms "small business" "small organization," and "small governmental jurisdictions."[82] In addition, the term "small business" is the same meaning as the term "small business concern" under the Small Business Act ("SBA"), 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[83] Under the SBA, a "small business concern" is one that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any individual criteria established by the Small Business Administration (SBA).[84]

The Commission has not developed a definition of small entities applicable to RF Equipment manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of "Radio and Television Broadcasting and Communications Equipment." According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.[85] Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would classified as small entities.[86] We believe that many of the companies that manufacture RF equipment may qualify as small entities.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.

There are currently five different equipment authorization procedures. They are type acceptance, certification, notification, verification and Declaration of Conformity (DoC). We are proposing to eliminate the notification procedure, and to combine the type acceptance procedure with the

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82 5 U.S.C. § 601(6).

83 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

84 15 U.S.C. § 632.

85 *See* 13 C.F.R § 121.201, Standard Industrial Classification (SIC) Code 3663.

86 *See* U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued May 1995), SIC category 3663.

certification procedure. Equipment currently under the notification procedure will be placed in the less stringent DoC or verification procedure, as appropriate. Both verification and DoC are self-authorization procedures, which allow equipment to be marketed without approval from the FCC once it has been tested and found to comply with the FCC rules. However, the DoC procedure has an additional requirement to test the equipment at an accredited laboratory, which provides a higher degree of confidence that a device will be measured correctly. It also has additional requirements for labelling and information supplied with the product, which allows the Commission to more easily locate the manufacturer in the event the equipment causes interference.

Applications for equipment authorization will be required to be filed electronically one year after the effective date of the rules. The equipment required to file will typically consist of a personal computer with an internet connection, a document scanner, a digital camera and software to convert data to the proper format. The equipment is readily available, or applicants can contract with others (e.g. - equipment testing laboratories) who have the equipment.

V. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.*

Simplification of equipment authorization categories

The Commission requested comments on its proposal to eliminate the notification category of equipment-authorization, and to combine the type acceptance with the certification category of authorization. It also requested comments on whether to combine the DoC and verification procedures.

There was no opposition to eliminating the notification procedure, but the Commission received comments concerning combining type acceptance with certification. Motorola stated that the change could be a source of confusion, and Rockwell had concerns that the structure of the proposed rules could be improved.[87] The Commission believes that having three different authorization procedures for equipment requiring approval is an even greater source of confusion than the proposal, particularly for small entities which may not be familiar with the rules. Accordingly, the Commission is eliminating the notification procedure, and combining type acceptance and certification into a single procedure called "certification" for equipment requiring an approval. The structure of the proposed rules is being modified as recommend by Rockwell to make them simpler for both large and small entities to understand.

The comments did not support combining the DoC and verification procedures. The DoC procedure is relatively new, and the Commission has expended resources educating small entities

[87] *See* Motorola comments at 16 and Rockwell comments at 7.

about it, so making changes to it at this point would cause confusion. Also, since there is a need to maintain a higher degree of confidence that certain equipment complies with standards to reduce the potential for causing harmful interference, the Commission believes it is necessary to keep the DoC procedure separate from the verification procedure.

Deregulation of equipment authorization requirements

The Commission proposed to relax the authorization requirement for equipment operating under various parts of the rules. The comments generally supported relaxing the requirements, and several parties supported even further relaxation than the Commission proposed. Rockwell requested that we place most Part 15 receivers under verification, and CEMA requested that we place VCRs under verification.[88] Ford recommended that we move certain Part 15 low power transmitters to DoC and Motorola recommended that we move Part 95 Family Radio Service transmitters to DoC.[89] Finally, Ericsson requested that certain Part 22 and Part 90 transmitters be moved to DoC or verification.[90]

The further relaxation in the authorization requirements proposed in the comments would reduce the burden on small entities manufacturing those devices. However, in relaxing the authorization requirements for equipment, the Commission must also consider whether there is an increased likelihood of harmful interference being caused. The Commission has carefully considered the requests made in the comments, and is concerned that relaxing the authorization requirement for these devices beyond what was proposed would result in too great a risk of interference to communication services. The authorization requirements selected by the Commission for each type of equipment are believed to be the least burdensome necessary to minimize the risk of interference, and will therefore have the least impact on small entities.

Electronic Filing

The Commission proposed to implement an electronic filing system for equipment authorization applications. It also solicited comments on whether the system should be mandatory or whether paper applications should continue to be accepted. The comments supported developing an electronic filing system, but some parties expressed concern about whether the Commission would mandate electronic filing, which could be burdensome for some entities.

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88 *See* Rockwell comments at 6, and CEMA comments at 3.

89 *See* Ford comments at 2, and Motorola comments at 19.

90 *See* Ericsson comments at 5.

The Commission believes that the implementation of an electronic filing system will significantly reduce the processing time of equipment authorization applications. Such a system would eliminate the delays associated with filing applications in Pittsburgh, transporting them to the Commission's Laboratory and manually logging them in. It would also allow parallel processing of applications, so the administrative and technical reviews can be done simultaneously, thus further reducing the processing time. Such a system will benefit small entities by reducing the costs caused by delays in marketing new equipment. We have decided to make the system mandatory, since the equipment required to electronically file applications is readily available. However, we will continue to accept paper applications for a period of one year to minimize the impact on small entities.

VI. *Report to Congress.* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this First Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register, see 5 U.S.C. § 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Separate Statement
of
Commissioner Susan Ness

Re: *Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment*

Our predecessor agency, the Federal Radio Commission, was established in 1927. The *raison d'etre* for that commission was the need to prevent harmful interference to services using the airwaves. Managing the spectrum to prevent interference remains one of this agency's most important priorities today.

In the digital age, an extraordinary number of devices have the potential to improve the quality of life. Many of these same devices also have the potential to cause harmful interference. This interference may degrade consumers' radio and TV reception, or it may jeopardize air traffic control systems, police and fire communications, or other services essential to public safety. That's why we have technical specifications for intentional and unintentional radiators -- to ensure that new products can continue to be designed *without* jeopardizing radio communications.

How can we best ensure compliance with these rules -- without unnecessarily impeding the flow of useful products into the marketplace? That's what this item is about.

In the past, we have liberalized equipment authorization procedures for products which were determined to present minimal risk of causing harmful interference. We are extending that liberalization today. A proceeding is already on the drawing board to take that process a step further -- to allow other organizations, instead of the Commission, to certify products.

I strongly support reducing unnecessary paperwork and delays. But we must not diminish our commitment to prevent harmful interference to authorized radio communications. Whatever our equipment authorization procedures, there will remain a danger that some products will not be designed to minimize the danger of interference. And there will also remain a problem of individuals who construct or operate transmitting devices with disregard for our rules.

Our responsibility to prevent harmful interference can only be fulfilled if we are prepared to follow through with credible enforcement. I sincerely hope that agency resources that are freed up, by today's order and by the third-party certification rulemaking, will be redirected to enforcement activities, so that instances of harmful interference can be swiftly remedied.